

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION NO. 104 of 1996

AND

COMPANY PETITION NO. 105 OF 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NIMCA INV. & CON. PVT.LTD.

Versus

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Appearance:

MRS SWATI S SOPARKAR for Petitioner

MR JN PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 07/11/96

ORAL JUDGEMENT

These are the petitions filed by two companies viz. Nica Inv. & Con. Private Limited, and Sun On Peak Hotels Private Limited for sanction of a scheme of amalgamation of the former company with the latter under Section 391 read with Section 394 of the Companies Act,

1956.

The Transferor Company is engaged in the business of investing in and developing land particularly for hotels. The Company is carrying on this activity profitably. Sun On Peak Hotels Private Limited, the Transferee Company is engaged in the business of financing and investment. Both the companies belong to the same management group. Both the petitions give details of the advantages that would flow by virtue of the amalgamation of these companies.

Since the Transferor Company is a private limited Company, the number of shareholders is very less. All the shareholders of the Company and all the secured and unsecured creditors of the Transferor Company had given their consents in writing for the sanction of the scheme of amalgamation. Hence, the meetings of the concerned parties were dispensed with by this Court vide order dated 3.5.1996 passed in Company Application No. 104/96.

The Transferee Company is also a private limited company and all the shareholders of the Company had given their consents in writing for the sanction of the scheme of amalgamation. Hence, the meetings of the concerned parties were dispensed with by this Court vide order dated 3.5.1996 passed in Company Application No. 105/96.

After the petitions were admitted, they were advertised in the newspapers and no one has come forward opposing sanction of the Scheme of Amalgamation.

Notice of the petitions has been served upon the Central Government and Mr Jayant Patel, learned Additional Central Government Standing Counsel and Mr Haroobhai Mehta, learned Central Government Standing Counsel for the Central Government have stated that the Central Government has no objection in sanctioning the Scheme of Amalgamation as informed by the Registrar of Companies, Gujarat under his letter No. AMLG/STA(v)/96-97 dated 23.10.1996. Notice of the petition of the Transferor Company has also been served upon the Official Liquidator as required under 2nd proviso to Section 394 (1) of the Companies Act and the Official Liquidator has filed his report dated 23.9.1996 stating that the affairs of the Transferor Company have not been conducted in a manner prejudicial to its members or to public interest.

I have heard learned advocate Mr S.N. Soparkar for the Transferee Company and learned advocate Mrs Swati

Soparkar for the Transferor Company. Having gone through the petitions, I am satisfied that amalgamation would be in the interest of both the Companies and its members. Under the circumstances the Scheme of Amalgamation (Annexure "C" to the petitions) is sanctioned. Prayer in terms of para 14(A) of the petitions is granted.

The petitions are disposed of accordingly. So far as the costs to be paid to the Central Government Standing Counsel is concerned, I quantify the same at Rs.2,500/- per petition to be paid to Mr Jayant Patel and Mr Haroobhai Mehta.
